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OCT 25 2005
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

TONY LEE EPPERSON

Defendant.

CRIMINAL CASE NO. 3:05CR00010

ORDER AND OPINION

JUDGE NORMAN K. MOON

This matter is currently before the Court on (1) the Defendant's request for sentence correction sought by letter motion on October 18, 2005 and (2) the Defendant's request for appointment of counsel, sought by letter motion on October 17, 2005.

Under Rule 35(a) the Court may correct a sentence resulting from arithmetical, technical, or other clear error only within seven (7) days after sentencing. Fed. R. Crim. P. 35(a). None of these errors is apparent within Defendant's sentence, but even if it were, the Court no longer has jurisdiction to make such a correction. The only one of Defendant's letters falling within the seven day time frame was received on September 29, 2005, and that letter only notifies the Court of Defendant's intent to appeal and his request for legal counsel. Hence, Defendant's request for sentence correction is DENIED as untimely.

As to Defendant's request for the appointment of counsel, finding good cause to do so, the Court GRANTS Defendant's letter motion and ORDERS that a new attorney shall be

substituted to represent Defendant in further proceedings.

It is so ORDERED.

The Clerk of the Court is hereby directed to send a certified copy of this Order to the Defendant and all counsel of record.

ENTERED:

Dawn M. Mon

Judge

October 25, 2005

Date